

Proclamation 4341

January 23, 1975

Modifying Proclamation No. 3279,¹ Relating to Imports of Petroleum and Petroleum Products, and Providing for the Long-Term Control of Imports of Petroleum and Petroleum Products Through a System of License Fees

By the President of the United States of America

A Proclamation

WHEREAS the Director of the Office of Civil and Defense Mobilization found pursuant to Section 2 of the Act of July 1, 1954, as amended (19 U.S.C. 1352a), "that crude oil and the principal crude oil derivatives and products are being imported in such quantities and under such circumstances as to threaten to impair the national security;" and

WHEREAS, Proclamation No. 3279 as well as modifications thereof, including Proclamation No. 4210 which suspended tariffs on imports of petroleum and petroleum products and established a system of license fees for such imports, was issued pursuant to this finding; and

WHEREAS, although conditions in world oil markets have changed significantly in recent years, the above finding continues to be valid at the present time; and

WHEREAS, the Administrator of the Federal Energy Administration who maintains constant surveillance of imports of petroleum and its primary derivatives in respect to the national security, and who has reviewed the current status of imports under Proclamation No. 3279, as amended, has recommended that the method of adjusting imports of crude oil and the principal crude oil derivatives and products be modified; and

WHEREAS, I agree with this recommendation; and

WHEREAS, pursuant to Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), the Secretary of the Treasury having made an appropriate investigation to determine the effects on

19 USC 1862
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¹ 24 FR 1781, 3 CFR, 1959-1963 Comp., p. 11.

the national security of imports of crude oil and the principal crude oil derivatives and products and having considered the matters required by him to be considered by the Trade Expansion Act of 1962, as amended, has reported the findings of his investigation and has advised me that crude oil, the principal crude oil derivatives and products, and related products derived from natural gas and coal tar, are being imported in such quantities and under such circumstances as to threaten to impair the national security and has recommended that I take action to reduce such imports; and

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WHEREAS, having considered the matters required by me to be considered by the Trade Expansion Act of 1962, as amended, I agree with the said advice; and

WHEREAS, I find and declare that adjustments must be made in imports of crude oil, the principal crude oil derivatives and products, and related products, so that such imports will not so threaten to impair the national security; and

WHEREAS, I judge it necessary and consistent with the national security to further discourage importation into the United States of petroleum, petroleum products, and related products, in such quantities or under such circumstances as to threaten to impair the national security; to create conditions favorable to domestic crude oil production needed for projected national security requirements; and to increase the capacity of domestic refineries and petrochemical plants to meet such requirements; and to encourage the development of other sources of energy; and

WHEREAS, in order to achieve the above objectives, I determine that a supplemental fee should be imposed on all imports of petroleum and petroleum products, and that certain other changes in the existing license fee system be made; and

WHEREAS, I have instructed the Administrator of the Federal Energy Administration to evaluate the structure and scope of coverage of those aspects of the existing Mandatory Oil Import Program which are not changed by this Proclamation, and to report to me within three months with his recommendations;

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, acting under and by virtue of the authority

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vested in me by the Constitution and the laws of the United States, including Section 232 of the Trade Expansion Act of 1962, as amended, do hereby proclaim that, effective as of February 1, 1975, a new system of oil import fees is instituted, and accordingly, Proclamation No. 3279, as amended, is hereby further amended as follows:

SECTION 1. Subparagraph (1) of paragraph (a) of section 3 is amended to read as follows:

SEC. 3(a)(1). Effective February 1, 1975, the Administrator shall issue allocations and licenses subject to fees, on imports of crude oil, unfinished oils, and finished products. Such licenses shall require, among other appropriate provisions, that:

(i) With respect to imports of crude oil and natural gas products, over and above the levels of imports established in Section 2 of this Proclamation, such fees shall be \$0.21 per barrel;

(ii) With respect to imports of motor gasoline, unfinished oils, and all other finished products (except ethane, propane, butanes, and asphalt), over and above the levels of imports established in Section 2 of this Proclamation, such fees shall be \$0.63 per barrel;

(iii) With respect to imports of crude oil, natural gas products, unfinished oils, and all other finished products (except ethane, propane, butanes, and asphalt) entered into the customs territory of the United States on or after February 1, 1975, there shall be a supplemental fee per barrel, of \$1.00, rising to \$2.00 on imports entered on or after March 1, 1975, and to \$3.00 on imports entered on or after April 1, 1975;

(iv) With respect to the fees imposed pursuant to paragraphs 3(a)(1)(i)–(iii), the amount of such fees shall be reduced, on a monthly basis, by an amount equal to any applicable duties paid less any drawbacks received during the same period, except that where duty drawbacks exceed the duty paid during that period, the net differences shall be applied to subsequent periods;

(v) With respect to all licenses issued prior to the effective date of this Proclamation, such licenses shall be subject to paragraph 3(a)(1)(iii), regardless of whether such licenses were issued as a result of payment of fees or an allocation not subject to fee;

(vi) With respect to licenses issued prior to the effective date of this Proclamation, not subject to the license fee prescribed in paragraph 3(a)(1)(i)–(ii) or licenses issued by prepayment of such fees, payment

of the fees prescribed in paragraph 3(a)(1)(iii) shall be made no later than the last day of the month following the month in which such imports were released from customs custody or entered or withdrawn from warehouse for consumption, whichever occurs first. With respect to licenses subject to the fees prescribed in paragraph 3(a)(1)(i)–(ii) but issued against a surety bond, payment of the fees prescribed in paragraph 3(a)(1)(iii) shall be made simultaneously with payment of the fees prescribed in paragraph 3(a)(1)(i)–(ii). Notwithstanding the provisions of paragraph (b) of Section 3, surety bonds need not be increased to cover the additional fee liability on licenses issued prior to the effective date of this Proclamation;

(vii) With respect to licenses issued on or after February 1, 1975, for imports entered into the customs territory of the United States prior to April 1, 1975, an amount of fees under paragraph 3(a)(1)(iii) equal to those due on April 1, 1975, shall be payable, subject to refund of the difference between the amount of the fee applicable at the time the imports are entered and the amount already paid;

(viii) With respect to licenses issued pursuant to paragraph 3(a)(1)(iii) for imports other than (A) crude oil as defined for purposes of the Old Oil Allocation Program which is imported for refining or (B) products refined in a refinery outside of the customs territory as to which crude oil runs to stills would qualify a refiner to receive entitlements under the Old Oil Allocation Program, the Administrator may by regulation reduce the fee payable by the following amounts, or by such other amounts as he may determine to be necessary to achieve the objectives of this Proclamation and the Emergency Petroleum Allocation Act of 1973:

15 USC 751
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- for imports entered into the United States customs territory during the month of February, 1975, \$1.00 per barrel;
- for imports entered during the month of March, 1975, \$1.40 per barrel;
- for imports entered during the month of April, 1975, and thereafter, \$1.80 per barrel.

(ix) With respect to licenses issued pursuant to paragraph 3(a)(1)(i)–(iii), the Administrator:

(A) With respect to imports of crude oil, to the extent that such imports are refined into products or incorporated into petrochemicals

exported from the United States and its territories and possessions, shall refund any fee collected; *provided*, that the Administrator may limit the quantity of exports to which refunds under this provision may be applicable;

(B) With respect to unfinished oils, may, by regulation, provide for refunds to the extent that such unfinished oils are refined into products or incorporated into petrochemicals which are exported from the United States and its territories and possessions; and

(C) With respect to petrochemicals, shall specify, by regulation, those petrochemicals which qualify an importer for a refund under this subparagraph."

SEC. 2. In addition to the foregoing amendments, which in themselves are intended to achieve the objectives of this Proclamation, the following additional and conforming amendments are made to Proclamation No. 3279, as amended:

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(a) Paragraph (c) of Section 1 is amended to read as follows:

"(c) In Districts I–IV, District V, and in Puerto Rico, no department, establishment, or agency of the United States shall without prior payment of the fees provided for in Section 3(a)(1) (i)–(ii) of this Proclamation, import finished products in excess of the respective allocations made to them by the Administrator. Such allocations shall, except as otherwise provided in this Proclamation, be within the maximum levels of imports established in Section 2 of this Proclamation. No such department, establishment, or agency shall be exempt from the fees provided in Section 3(a)(1) (iii)."

(b) Section 2 is amended in the following respects:

(1) The first sentence of paragraph (a) of section 2 preceding subparagraph (1) is amended to read as follows:

"SEC. 2(a). Except as otherwise provided in this Proclamation, the maximum level of imports, from sources other than Canada and Mexico which may be made without prior payment of the fees provided in Section 3(a)(1) (i)–(ii) of this Proclamation, of crude oil, unfinished oils, and finished products (other than residual fuel oil to be used as fuel) shall be:"

(2) Subparagraphs (1), (2), (5) and (6) of paragraph (a) of section 2 are amended by deleting the word "calendar" wherever it appears.

(3) Paragraph (c) of section 2 is deleted, and paragraph (d) is redesignated as paragraph (c).

(4) Subparagraph (1) of paragraph (d) of section 2 preceding the portion of subparagraph (1) designated (i) is amended to read as follows:

“(c)(1) Except as otherwise provided in this Proclamation, the maximum levels of imports from Canada of crude oil and unfinished oils to which license fees under section 3(a)(1) (i)–(ii) are not applicable shall be:”

(5) Subparagraph (1) of paragraph (d) of section 2 is amended in the portions designated (i) and (ii) by deleting the word “calendar” wherever it appears.

(6) Paragraph (e) of section 2 is redesignated as paragraph (d), and is amended by deleting the word “calendar.”

(7) Paragraph (f) of section 2 is redesignated as paragraph (e).

(c) Section 3 is amended in the following additional respects:

(1) Subparagraph (2) of paragraph (a) of section 3 is amended in its proviso to read as follows:

“*Provided*, that such rate shall apply also in cases where the holder of the license establishes to the satisfaction of the Administrator that he made a good faith attempt to arrange shipment by vessel under United States registry and that no such vessel was available at reasonable rates for the purpose at the time this shipment was made.”

(2) Subparagraph (3) of paragraph (a) of section 3 is amended to read as follows:

“(3) The Administrator is authorized to refund or reduce fees, whether in whole or in part, (i) for payment to the importer of record, on a monthly basis, of sums equal to the sums collected by way of duties, by the United States Customs Service, less any applicable drawback pursuant to paragraph 3(a)(1)(iv); (ii) for payment to the importer of record of the sums required to be refunded by paragraphs 3(a)(1)(vii) and (viii); (iii) where the licensee failed to use, wholly or in part, the license issued to him; (iv) where refunds of license fees, whether in whole or in part, are ordered by the Oil Import Appeals Board; (v) where refund of a license fee, whether in whole or in part, is called for by reason of a person having exported finished products or petrochemicals; (vi) where crude oil imported by virtue of a license for which a fee

was paid has been manufactured into asphalt; (vii) where refund of a license fee is called for by reason of the same having been improperly charged."

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(3) Paragraph (b) of section 3 is amended to read as follows:

"(b) Applications for allocations and licenses for imports subject to fee under this section shall be accompanied by the applicant's certified check, or a cashier's check, payable to the order of the Treasurer of the United States in the amount chargeable pursuant to this section, or by a bond with a surety on the list of acceptable sureties on Federal bonds maintained by the Bureau of Government Financial Operations, Department of the Treasury, in a sum not less than the amount chargeable pursuant to this section, conditioned upon payment of such amount to the order of the Treasurer of the United States, by the last day of the month following the month in which such imports were released from customs custody or entered or withdrawn from warehouse, whichever occurs first, or within such other period as the Administrator shall specify. In the event that such bond is terminated or the face value of the bond is reduced below the outstanding liability of licenses issued pursuant to the bond, the Administrator shall immediately revoke all licenses issued pursuant to the bond. Except as to a department, establishment or agency of the United States, applications not accompanied by a certified check, cashier's check, or bond in the amount required shall not be considered. Payment of fees by or for the account of a department, establishment, or agency of the United States shall be accomplished by transfers, as appropriate, from appropriation accounts available to such department, establishment, or agency, to the suspense account provided by subparagraph (1) of paragraph (c) of this section."

(4) Subparagraph (1) of paragraph (c) of section 3 is amended to read as follows:

"(c)(1) All monies received by the Administrator under the terms of paragraph (b) of this section shall be held by the Administrator in a suspense account and may be drawn upon by the Administrator for the payment of refundable license fees. Balances remaining in such suspense account and not required to be reserved for payments hereinabove provided shall be deposited at the end of each fiscal year in the Treasury of the United States and credited to miscellaneous receipts."

(5) Subparagraph (2) of paragraph (c) of section 3 is redesignated as subparagraph (3) and a new subparagraph (2) is added to para-

graph (c) to read as follows:

“(2) Any importer, paying fees pursuant to this section, shall, with respect to each such payment, receive the refunds authorized by subparagraph (1)(iv) of paragraph (a) of this section by submitting to the Administrator, simultaneously with or subsequent to the payment of license fees, such evidence of tariff payment as the Administrator shall specify. Said importer shall also certify the amount of drawback received during the same period for which a refund is requested.”

(d) Section 4 is amended in the following respects:

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(1) Subparagraphs (1), (2), and (4) of paragraph (b) of section 4 are amended by inserting the phrase “under section 3(a)(1)(i)–(ii)” after the words “license fees” wherever such words shall appear.

(2) Subparagraph (5) of paragraph (b) of section 4 is amended in the first sentence by inserting the phrase “under section 3(a)(1)(i)–(ii)” after the words “license fees”, and in the third and fourth sentences by inserting the words “to which fees under section 3(a)(1)(i)–(ii) shall not be applicable” after the word “allocations”, wherever such word shall appear.

(4) Paragraph (c) of section 4 is amended by adding, at the end of said paragraph, the following sentence:

“In exercising this authority the Administrator will consult with the Secretaries of State, Treasury, and Defense, as appropriate.”

(5) Paragraph (d) of section 4 is deleted.

(e) Section 5 is amended in the following respects:

(1) Paragraph (a) of section 5 is amended by deleting the last sentence.

(2) Paragraph (b) of section 5 is amended in clause (1) of the first sentence by deleting the words “on applications for allocations of imports under such regulations,” and by inserting the words “under implementing regulations,” in the last sentence by deleting the word “fee” and inserting the words “from the fees established in section 3(a)(i)–(ii)”, and by adding a new sentence after the last sentence to read as follows: “Any allocations granted by the Board, however, shall be subject to payment of the fees established in section 3(a)(1)(iii).”

(f) Section 10 is redesignated as section 7 and is amended to read as follows:

“SEC. 7. The Administrator shall provide policy direction, coordina-

tion, and surveillance of the mandatory oil import program, and shall, from time to time, in consultation with the Secretaries of State and the Treasury and other federal agencies as appropriate, review the status of imports of petroleum and its primary derivatives in respect to the national security. In this connection, he shall inform the President of any circumstances which might indicate the need for further Presidential action under Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), as amended."

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(g) Section 11 is redesignated as section 8 and is amended by adding after the words "fee" or "fees", wherever they shall appear, the phrase "under section 3(a)(1)(i)-(ii)", and by deleting the proviso.

(h) Section 12 is redesignated as section 9, and is amended by substituting a comma for the period, and by adding the words "except that all such allocations shall be subject to the payment of fees prescribed by section 3(a)(1)(iii) of this Proclamation."

(i) Section 13 is redesignated as section 10.

(j) Section 14 is deleted.

(k) Section 15 is redesignated as section 11 and is amended by adding, after the last paragraph, the following paragraphs:

"(m) The term 'Administrator' means the Administrator of the Federal Energy Administration, or his delegate.

"(n) The term 'Old Oil Allocation Program' means the program adopted pursuant to the Emergency Petroleum Allocation Act of 1973 for Allocation of Old Oil, 39 F.R. 42246 (December 4, 1974), 10 C.F.R. 211.67."

15 USC 751
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(1) Section 16 is redesignated as section 12, and is amended to read as follows:

"SECTION 12. Effective with respect to articles entered, or withdrawn from warehouse for consumption on or after February 1, 1975, tariffs upon imports of petroleum products listed in schedule 4, part 10—"Petroleum, natural gas, and products derived therefrom"—of the Tariff Schedules of the United States shall be and are reinstated."

19 USC 1202.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of January, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred and ninety-ninth.

GERALD R. FORD